

(41)
9/24/01
ESTATE

DECLARATION/EXHAUSTION

I, John Charles Kenney, pro se, plaintiff in John Charles Kenney v. Jake Mendez, Warden, et al., Case No. 1:cv-00-2143 hereby declare under penalty of perjury pursuant to 28 USC 1746. That, I have "fully" exhausted all available Administrative Remedies available to me pursuant to the Civil Rights Act of Institutionalized Persons Act, 7(a), as amended, 42 USC 1997e(a). (See Exhaustion Packet) (reflecting) I, further declare that, I also exhausted Federal Administrative Tort Claim regarding the above civil case No. 1:cv-00-2143. I was "emphatically" denied all relief. As a result the present Civil Rights complaint is ripe for adjudication.

X Kenney # 05238-041

Dated: 9/17/01

Mr. John Charles Kenney
Register No. 05238-041
Allenwood USP
P.O. Box 3000
White Deer PA 17887-3000

FILED
WILLIAMSPORT, PA

SEP 24 2001

MARY E. D'ANDREA, CLERK
Per JD DEPUTY CLERK

ALP-1330.13B
March 1, 1997
Attachment 1

UNITED STATES PENITENTIARY
ALLENWOOD, Pennsylvania

ADMINISTRATIVE REMEDY PROCEDURE FOR INMATES
INFORMATION RESOLUTION FORM

NOTE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-9 (BP-229.13), you **MUST** attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state the names of staff contacted.

Issued By: W. BECK Initials of Correctional Counselor
Date Issued To The Inmate: 8-24-00

INMATE'S COMMENTS:

1. Complaint: On Wednesday, September 29, 1999 I was viciously beaten and brutally attacked by [redacted] (Former Unit II- Staff Manager-Gonzalez) Gonzalez for no reason repeatedly stuck me about my head & face with sharp keys.
2. Efforts you have made to informally resolve: Upon several occasions I have repeatedly tried to inquire as to why Gonzalez physically attacked me.
3. Names of staff you contacted: via correspondence to Wardens [redacted]. Tried to contact CSC D- [redacted] upon numerous occasions but CSC is unresponsive. Through letters I have contacted NE BOB [redacted] Mr. Sturgis and [redacted] [redacted] Counselor

Date Returned to Correctional Counselor: 9/25/00

W. Beck/Kay Kennedy
Inmate's Signature

OS138-041
Reg. No.

9/25/00
Date

CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and staff contacted: _____
SEE ATTACHED

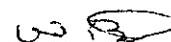
Date BP-9 Issued: 10-6-00

W. Beck / w.d.
Correctional Counselor
P. BRIDGE 10-6-2000
Unit Manager (Date)

RESPONSE TO ADMINISTRATIVE REMEDY (BP-8)

TO: KENNEY, JOHN
REG. NO.: 05238-041

This is in response to your Administrative Remedy Form (BP-8) submitted on August 24, 2000. On December 7, 1999 you were found guilty of violation of code 101A, Serious Assault (Attempted). This incident report was written on September 29, 1999, after you attempted to assault your Unit Manager, and staff had to use immediate force to subdue you.


W. Beck
Correctional Counselor

U.S. DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

(See Attachment Sheet)

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Kenney, John C. LAST NAME, FIRST, MIDDLE INITIAL 05238-041 REG. NO. I-B UNIT Allenwood USP INSTITUTION

Part A- INMATE REQUEST

STATEMENT OF FACTS

On Wednesday, Sept. 29, 1999, while an inmate at Allenwood USP I was viciously attacked and brutally beaten by my (former) Unit III Mgr. Mr. J.W. Gonzalez. Gonzalez had repeatedly struck me about the head and facial areas with large "sharp" metal keys, which caused me numerous physical and emotional injuries. Even though I was non-resistant and remained completely docile, Gonzalez for no apparent reason assaulted me, while Scarborough assisted Gonzalez by pinning my limbs as Gonzalez assaulted me. Additionally, III-A Case Mgr. Ms. K. Keiser stood as a spectator; she clearly saw/observed Gonzalez and his coconspirator CIO Scarborough assaulting me, but she failed to protect me from being physically assaulted by her co-workers. As a result of this incident I hereby claim "Excessive Force," Conspiracy to Execute Excessive Force, Deliberate Indifference and Retaliation.

DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

CASE NUMBER:

Part C- RECEIPT

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT:

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

BOP - 9 Attachment
Grounds For Relief

Tuesday, Sept. 10, 2000

I have an absolute right under the Eighth Amendment of the U.S. Constitution to be free from "Cruel and Unusual Punishment." The Eighth Amendment applies to incarcerated prisoners. See, Whitley v. Albers, 475 U.S. 312, 327 (1986); see also, Hudson v. McMillian, 503 U.S. 1, 7 (1992). The force described in this grievance was excessive. Brooks v. Kyler, 204 F.3d 102, 109 (3rd Cir. 2000) and repeatedly applied in "bad" faith. Gonzalez's intent was to cause me absolute harm. It was "cruel and unusual" when Gonzalez committed an aggravated assault upon me by repeatedly striking me in my head and facial areas with large "sharp" steel keys which resulted in "deliberate indifference," because I had received numerous physical injuries as a result of Gonzalez's "gross" acts committed upon me. (See, Med Sheet) (med sheet reflects the "numerous" injuries Gonzalez inflicted on me). Case Mgt. # A, Ms. Kaiser and CIO Scarborough are equally responsible, because they either participated in this attack upon me, thus both failed to protect me. All described above was in violation of my Eighth Amendment rights; see also, BOP P.S. 3402 Standards of Employee Conduct and Responsibility (holding Brutality of inmates by employees will not be permitted... employees may never strike a restrained inmate). Additionally, I am also being retaliated against from this incident, even though I was victimized.

Relief Requested

I, John Charles Kennedy, Reg. No. 05238-041 the author of this grievance hereby request 2-million-dollars \$2,000,000.00 for the injuries Gonzalez inflicted on me. I also request deletion of my current designation to LISP-Marion, and to be reclassified, because my current classification is incorrect based on biasness.

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 18, 2000

S/ Ash-Carlson

FROM: ADMINISTRATIVE REMEDY COORDINATOR
ALLENWOOD USP

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-103UAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDIY ID : 224261-F1 ADMINISTRATIVE REMEDY REQUEST
DATE RECEIVED : OCTOBER 13, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS
MUST BE RECEIVED WITHIN 20 DAYS OF THE EVENT COMPLAINED
ABOUT.

U.S. Department of Justice

Regional Administrator's Remedy Appeal

Federal Bureau of Prisons

C.C. 42 USC 1983, 28 USC 1331, 1343.

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: KENNEY, John, C.

LAST NAME, FIRST, MIDDLE INITIAL

05238-041

REG. NO.

I-BAllenwood USP

UNIT

INSTITUTION

Part A—REASON FOR APPEAL

I appeal the BP-9, at Number 224261-F1 to this office for the following reasons:

1. I was never informed of any time limitations for presenting such claims. Therefore, I was unaware of any time limitations.
2. My (former) III Unit Manager-Gonzalez had informed me that there were not any time limitations, and that I could file such claims any time I wished.
3. Due to the "seriousness" of allegations, and injuries I sustained from Gonzalez. That relief should be afforded to me based upon the merits of these claims presented.

DATE

SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 224261-R1

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 25, 2000

D. Rostek
FROM: ADMINISTRATIVE REMEDY COORDINATOR
NORTHEAST REGIONAL OFFICE

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-104LAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDIY ID : 224261-R1 REGIONAL APPEAL
DATE RECEIVED : OCTOBER 24, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR APPEAL IS UNTIMELY. REGIONAL APPEALS
(BP-10) MUST BE RECEIVED WITHIN 20 DAYS OF THE
WARDEN'S AND CCM'S RESPONSE OR RECEIPT OF THE
DHO'S DECISION. THIS TIME INCLUDES MAIL TIME.

U.S. Department of Justice

Federal Bureau of Prisons

Central Office Administrative Remedy Appeal

BP-11

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: KENNEY, John, C

LAST NAME, FIRST, MIDDLE INITIAL

05238-041

REG. NO.

I-B

UNIT

Allenwood WSH

INSTITUTION

Part A—REASON FOR APPEAL

I am dissatisfied with the BP-10 Response # 224261-R1 from the Northeast Region. As a result, I'm appealing to the Washington Office for the same reasons contained in the enclosed BP-10. And that, I should be awarded the 2-million dollars for the injuries I sustained from LHMgr. Gonzalez.

11/6/00

DATE

Mr John C. Kenney

SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

Part C—RECEIPT

CASE NUMBER:

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT:

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

USP LVN

REJECTION NOTICE / ADMINISTRATIVE REMEDY

DATE: NOVEMBER 14, 2000

FROM: ADMINISTRATIVE REMEDY COORDINATOR
BOP CENTRAL OFFICE

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-111LAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDIY ID : 224261-A1 CENTRAL OFFICE APPEAL
DATE RECEIVED : NOVEMBER 13, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR APPEAL IS UNTIMELY. REGIONAL APPEALS
(BP-10) MUST BE RECEIVED WITHIN 20 DAYS OF THE
WARDEN'S AND CCM'S RESPONSE OR RECEIPT OF THE
DHO'S DECISION. THIS TIME INCLUDES MAIL TIME.

REMARKS : CONCUR WITH RATIONALE FOR REJECTING THIS APPEAL.